

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CAN CAPITAL MERCHANT SERVICES
INC., a Del Corp

Plaintiff,
v
Hon. Denis Page Hood
Case No. 2:16-cv-10487-DPH-APP

ALL WIRELESS, Inc. a Michigan Corp,
and MOHAMED K. KATBEY, Guarantor,
jointly and severally

Defendants,

MULLER, MULLER, RICHMOND
By: Richard A. Miller (P58626)
Attorney for Plaintiff
33233 Woodward Ave
Birmingham, MI 48009
248/645-2440
Detroit, MI 48226

DEANO C. WARE, P.C.
Deano C. Ware (P65421)
Attorney for Defendants
24801 Five Mile, Ste. 5
Redford, Michigan 48240
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**DEFENDANTS/COUNTER PLAINTIFFS ALL WIRELESS, INC/ AND
MOHAMED K. KATBEY ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFF/COUNTER DEFENDANT'S FIRST AMENDED COMPLAINT**

Defendants/Counter Plaintiffs, All Wireless, Inc. and Mohamed K. Katbey, through
counsel, Deano C. Ware, P.C., state as follows for their Answers and Affirmative Defenses
to Plaintiff's Complaint:

1. Denied as untrue.
2. Neither admitted or denied as paragraph 2 of Plaintiff/Counter Defendant's
Amended Complaint is conclusory.

3. Denied as untrue as Plaintiff/Counter Defendant's Amended Complaint fails to state what the purported sum of \$55,934.94 consists of and which "receipts" were not received totaling \$55,934.94.
4. Denied as the transaction Plaintiff entered into with Defendants was contrary to law and public policy. Was usurious and unenforceable and that upon information and belief the sum of \$55,934.94 alleged to be owed to the Plaintiff/Counter Defendant already consists of interest far in excess of \$10,831.46.
5. Neither admitted or denied.

Respectfully Submitted,

DEANO C. WARE, P.C.

/s/ Deano C. Ware

Dated: March 27, 2016

DEANO C. WARE, P.C.
Deano C. Ware (P65421)
Attorney for Defendants Christy
P.O. Box 40162
Redford, Michigan 48239
(313) 541-8433
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AFFIRMATIVE DEFENSES AND DEMAND FOR ANSWER

Defendants/Counter Plaintiffs, All Wireless, Inc. and Mohamed K. Katbey, through counsel, Deano C. Ware, P.C., state as follows for their Answers and Affirmative Defenses to Plaintiff's Amended Complaint:

1. **Failure to State A Claim.** Plaintiff/Counter Defendants complaint as alleged fails to state a claim upon which relief may be granted.
2. **Binding Arbitration.** Some or all of Plaintiff/Counter Defendants complaint is governed by a Binding Arbitration agreement.

3. **Barred By Statute.** Some or all of Plaintiff/Counter Defendants claims for relief are barred in whole or part by law.
4. **Usury.** The transaction entered into between Plaintiff/Counter Defendants and Defendants is barred in whole or part by the doctrine of usury.
5. **Fraud.** Some or all of the relief sought by Plaintiff/Counter Defendants is barred by the doctrine of fraud where Plaintiff/Counter Defendants fraudulent misrepresented the nature of the transaction it was entering into with Defendants.
6. **Res Judicata/Collateral Estoppel.** That some or all of Plaintiff/Counter Defendants claims are barred by the doctrine of res judicata and collateral estoppel from a prior order entered by another United States District Court.
7. **Payment.** Defendants have paid all or part of the debt legally owed to Plaintiff/Counter Defendants.
8. **Lack of Standing.** Plaintiff/Counter Defendants lacks standing to bring one or all of its claims as the agreements relied upon by Plaintiff/Counter Defendants and attached to its complaint were entered into between the Defendants and AdvanceMe, Inc.
9. **Failure to Join A Necessary Party** Plaintiff/Counter Defendants have failed to join one or more necessary parties to this action.
10. **Reservation of Rights.** Defendants reserve the right to assert any and all other affirmative defenses revealed as a result of discovery or other pleadings in this matter.

Respectfully Submitted,

DEANO C. WARE, P.C.

/s/ Deano C. Ware

Dated: March 27, 2016

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CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2016 I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to the following **Richard A. Muller** and I hereby certify I have mailed by United States Postal Service the document to the following _____.

/s/DEANO C. WARE, P.C.